

# 1000 Introduction

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## **1000 Introduction**

### **1100 Introduction/Authority**

Section 4202 of the Oil Pollution Act of 1990 (OPA 90) amended Subsection (j) of Section 311 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321 (j)) to address the development of a National Planning and Response System. As part of this system, Area Committees have been established for each area designated by the President. These Area Committees are comprised of qualified personnel from Federal, State, and local agencies. Each Area Committee, under the direction of the Federal On-Scene Coordinator (FOSC) for the area, is responsible for developing an Area Contingency Plan (ACP) which, when implemented in conjunction with the National Contingency Plan (NCP), shall be adequate to remove a worst case discharge of oil or a hazardous substance, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near the geographic area. Each Area Committee is also responsible for working with State and local officials to pre-plan for joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife. The Area Committee is also required to work with State and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

The functions of designating areas, appointing Area Committee members, determining the information to be included in Area Contingency Plans, and reviewing and approving Area Contingency Plans have been delegated by Executive Order 12777 of 22 October 1991, to the Commandant of the U.S. Coast Guard (through the Secretary of Transportation) for the coastal zone, and to the Administrator of the Environmental Protection Agency for the inland zone. The term "coastal zone" is defined in the current NCP (40 CFR 300.5) to mean all United States waters subject to the tide, United States waters of the Great Lakes, specified ports and harbors on inland rivers, and the waters of the Exclusive Economic Zone (EEZ). The Coast Guard has designated as areas, those portions of the Captain of the Port (COTP) zones which are within the coastal zone, for which Area Committees will prepare Area Contingency Plans. The COTP zones are described in Coast Guard regulations (33 CFR Part 3).

### **1110 Pollution Investigation Authority**

Several federal, state, and local agencies have a direct role in the enforcement of applicable laws and regulations associated with a discharge, or substantial threat of a discharge, of oil into the navigable waters of the U.S. The investigation into alleged violations of the many applicable laws and regulations requires a coordinated effort among the many agencies involved. As a preliminary step to enhance the effectiveness of investigative activities and limit the potential negative impact of these activities upon the cleanup and removal actions associated with an incident, the following agencies have been identified as having a direct, field-oriented role in the initial stages of these events.

## 1120 Involved Agencies

*The United States Coast Guard.* The U.S. Coast Guard has enforcement and investigative authority for a significant array of potential violations of federal laws and regulations, as well as enforcement actions under applicable international treaties. The principle, though not exclusive, federal laws and regulations associated with a discharge or a substantial threat of a discharge of oil include applicable components of the Clean Water Act as amended; the Oil Pollution Act of 1990; the Ports and Waterways Act; The Port and Tanker Safety Act; The Act to Prevent Pollution from Ships (1980), as amended; and, Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78). In addition, authorities pursuant to 46 USC 7701 and 46 USC 6101 relate to personnel actions (licensed mariners), and marine casualties, respectively. The federal regulations associated with potential investigative or enforcement interest under these circumstances include, though are not limited to, applicable sections of 46 CFR with particular attention to Parts 4, 5, 16; 33 CFR Parts 126, 130, 151, 153-160; and 40 CFR Parts 116, and 117. Potential federal enforcement actions associated with a pollution discharge may include but are not limited to: collection of statements and evidence to determine the causes of the associated marine casualty, mandatory chemical testing of involved licensed personnel, and the collection of oil samples in the water and on suspect vessels.

*The State of California, Department of Fish and Game, Office of Oil Spill Prevention and Response (OSPR).* The Lempert-Keane-Seastrand Oil Spill Prevention and Response Act of 1990 (SB 2040) details the role of the OSPR in spill investigations. OSPR is the lead investigative unit for state and local governments. As the lead agency, OSPR will coordinate the investigative efforts for these government agencies. Government Code Section 8670.7 specifically requires the Administrator of OSPR to determine the cause and the amount of a discharge. The investigative goals of OSPR are: to take samples and secure evidence relevant to the spill; conduct interviews of any person with special knowledge as to the facts of the spill and make arrests, if necessary and appropriate; determine and document the facts related to the cause of the spill; secure evidence relevant to determining the volume of oil spilled and the amount recovered; determine if a responsible party exists and whether or not the responsible party will take financial responsibility for the cleanup and containment of the spill; and, make an initial determination as to whether or not the facts of the investigation indicate a violation of state or local laws or regulations, and if they do, initiate criminal or civil actions through the appropriate legal jurisdiction(s). State authority extends anywhere within the state and out to three miles from the shoreline. However, "hot pursuit" and other legal principles allow OSPR to operate outside of this narrow area of authority.

*State of California, State Lands Commission.* The Lempert-Keane-Seastrand Oil Spill and Response Act of 1990 (SB 2040) details the role of the State Lands Commission (SLC) in spill investigations within the jurisdictional boundaries of the State of California. The investigative role of the SLC following a spill will be to assist the OSPR Administrator in determining the cause and amount of the discharge in accordance with California Government Code, Title 2, Chapter 7.4, Article 2, Section 8670.7(e). In addition, the SLC will be assessing the cause of the spill to determine the effectiveness of its regulations and spill prevention programs. The goal will be to change these regulations or programs as necessary to prevent or reduce the risks

of similar occurrences in the future. SLC's jurisdiction applies to marine terminals and offshore platforms within three miles of shore. Investigative activities may be necessary onboard a vessel if the circumstances are such that a vessel is involved in a discharge at or involving a marine terminal or offshore platform within 3 miles of shore.

*State of California, Office of the State Fire Marshal, Pipeline Safety Division.* The goal of this office is to provide pipeline safety within the jurisdictional boundaries of the State of California. California Government Code Sections 40400 - 52999, Chapter 5.5 of the California Pipeline Safety Act of 1981 has given the State Fire Marshal's Office authority to respond to pipeline related offshore oil spills to determine compliance with pipeline safety regulations on construction, maintenance, and operations (normal, abnormal, emergency procedures, and cleanup responses). Sections 51015 and 51018 of the California Government Code specifically address inspections. Sections 51010, 51010.5, and 51010.6 pertain to jurisdictional pipelines, while Sections 51018.6 and 51018.7 provide civil penalties and criminal penalties, respectively by the California State Fire Marshal. For interstate pipeline spills, the California State Fire Marshal's office acts as an agent for the US Department of Transportation, Office of Pipeline Safety (OPS) with enforcement ultimately administered by OPS.

*United States Department of the Interior, Minerals Management Service (MMS).* The MMS's regulatory authority for accident investigation of offshore oil and gas facilities and related operations is based on the provisions in 30 CFR Part 250.19, Accident Reports (see also the OCS Lands Act Amendments, September 18, 1979, 43 USC 1801, Title II, Sec 208, Sec 22 (d) (1)). The MMS Manual states that the agency's principal objectives in conducting accident investigations are: "...to ensure consistent data collection and investigation of accidents in order to gather the information necessary to determine the cause(s) and to make appropriate recommendations for any corrective action needed. The primary goals are to prevent the recurrence of accidents, to enhance the safety of operations, and to protect the environment." (MMS Manual, Program Series, Part 640, Rules and Operations, Chapter 3, Accident Data Collection and Investigation, August 3, 1992). The MMS manual further states in Chapter 3.3.(A.) that "unless otherwise specifically ordered by the Director, all investigations...shall be fact-finding proceedings with no criminal issues and no adverse parties. The purpose of the investigation is to prepare a public report." An August 29, 1989 Memorandum of Understanding (MOU) between the MMS and USCG provides guidelines for convening accident panels and coordinating accident investigations between the two agencies.

*Local Enforcement Authorities.* Depending upon in which jurisdiction a discharge occurs, a number of local agencies may have investigative roles. As an example, the Los Angeles-Long Beach port complex maintains local Tariff regulations and enforcement authorities which are enforced by the ports themselves through their respective law enforcement entities; the Los Angeles Port Police and the Long Beach Harbor Patrol. Other local concerns, such as counties and cities through their respective Harbor Departments or Health Agencies, may be directly involved as the circumstances of the situation dictate.

*The County District Attorney's Office.* Depending upon the location of the incident, the respective District Attorney's Office may have a direct investigative role. For

example, in Los Angeles County, the Environmental Crimes Division of the Los Angeles County District Attorney's Office has jurisdiction over felony (or misdemeanor, in some cases) prosecutions under the California Government Code. This task requires the ability to promptly investigate marine petroleum spills, and to do so without interference from counsel or other representatives of the suspect entity or individual(s). The District Attorney's focus is on criminal investigations, which are distinct from civil natural resources damages actions. The latter are typically brought by the California Attorney General. Natural resource damage investigations are not the subject of this Appendix.

*The City Attorney's Office.* Each city in which an incident occurs, or in which the impact of an incident may be directly felt, may have a direct investigative role. For example, in the City of Los Angeles, the Environmental Protection Unit - Special Operations Division of the Los Angeles City Attorney's Office serves as the legal advisor to all City Departments and Bureaus involved in the investigation of environmental crimes. The City Attorney's Office has the authority to provide legal advice to the aforementioned personnel through the Los Angeles City Charter. The various City Departments and Bureaus also derive their investigative authority from the City Charter and State General Laws which are also known as police powers. Special Operations attorneys provide advice on search and seizure issues which may arise out of the initial criminal investigation of a local marine petroleum oil spill and which may involve any of the city's law enforcement and regulatory personnel.

Other federal, state, or local agencies may have a direct, field-oriented investigative role concerning a discharge or substantial threat of a discharge of oil, as circumstances dictate.

### **1130 Guiding Principles**

The following general statements summarize the primary guiding principles associated with these direct, field-oriented investigations.

Investigative and response actions must interfere with each other as little as possible. Investigative efforts often involve the collection of evidence in a timely manner. This requires investigative efforts and evidence gathering during the high-intensity emergency phase of removal actions. Every effort must be made to coordinate investigative activities to minimize the impact on response and removal efforts. Simply separating investigative and removal functions amongst distinct and different individuals or groups serves to mitigate any potential interference one activity may have on the other. Conversely, individual investigators must understand the concerns of those directing response efforts to minimize the impact of the incident on public health, welfare, and the environment.

Coordination of investigative activities is very important where possible. Any number of mechanisms exists to coordinate efforts on-site during an incident. Periodic coordination meetings greatly enhance command, control, and communications amongst different parties. Lead agencies may carry the dual role of conducting an investigation and coordinating these meetings.

Investigations into, for example, cause, liability, and violations of applicable laws and regulations are a reality. The various federal, state, and local agencies discussed above will be involved in an investigative role as applicable.

Investigative roles, efforts, and degree of interest will vary from incident to

incident. Investigative interest and activity will be a function of the scope, size, impact, location, and causes of the incident.

Understanding each agency's role increases the efficiency of investigative activities. There is a need for a strong commitment to develop necessary interagency understandings and working agreements which contribute towards this goal. In addition, these efforts would facilitate the smooth acquisition of necessary information and evidence on an ongoing basis. The emphasis on this element is to make these improvements before an incident occurs.

## **1200 Geographic Boundaries**

### **1210 Area of Responsibility**

Sector San Francisco's Captain of the Port (COTP) Area of Responsibility (AOR) is specified in 33 CFR 3.55-20 and comprises the land masses and waters of California north of San Luis Obispo, Kern and San Bernardino Counties; Utah, except for Washington, Kane, San Juan, and Garfield Counties; and Nevada except for Clark County. Under the Oil Pollution Act of 1990, Federal removal authority was extended to include the waters of the exclusive economic zone established by Presidential Proclamation Number 5030 dated March 10, 1983.

The purpose of this section is to describe the USCG/EPA boundaries between coastal and inland zones for the purpose of providing On-Scene Coordinators in Region IX-Mainland.

The Coast Guard furnishes the OSC for the coastal zone and the EPA for the inland zone. In California, the dividing line between the coastal and inland zone generally follows the coastline and includes bays, rivers, estuaries, and inlets as far inland as the demarcation line. These boundaries recognize the Coast Guard's primary responsibility over discharges and releases in navigable waters from vessels and waterfront facilities as defined in 33 CFR 126.01 and EPA's primary responsibility for discharges and releases that occur on land.

Previously the lines represented the boundary lines between the coastal and inland zones; i.e., all land and water seaward of the line was the coastal zone (CG jurisdiction) and all land and water inland of the line was the inland zone (EPA jurisdiction). Since the boundary lines divided local jurisdictions, confusion often existed as to which agency would provide the OSC and also resulted in inconsistent federal responses. For example, a railcar could have a release on one side of a highway and the EPA would be the OSC. The next day, two hundred yards on the other side of the highway, another release could occur from a railcar and the CG would be the OSC. This situation could certainly confuse local responders, as well as planners. Again, this change is designed to give the CG primary responsibility for discharges and releases that occur on the water or "designated waterfront facilities" and give EPA the primary responsibility for discharges and releases that occur on land. Although the descriptions of the lines are essentially the same, they now have different significance. The lines are now called "demarcation lines" and mark the inland extent of the coastal zone regarding bays, rivers, inlets, etc. In other words, the coastal zone

consists of coastal waters and internal waters as far inland as the demarcation line. The coastal zone no longer includes the land seaward of the demarcation lines; only the water.

As a general rule, the location of the source of the discharge will be the determining factor of which agency provides the OSC. When the discharge or release occurs and remains within one agency's boundary, it is clear which agency will provide the OSC. In these cases, when requested by the other agency, each agency will provide support, within the limits of their resources, to the other's OSC. When a spill occurs in one zone and flows, or threatens to flow, into another, a question can arise as to which agency will provide the OSC. This scenario is likely in the near coastal area when a spill occurs on land (EPA jurisdiction) and flows or migrates through storm drains or ditches into the water seaward of the demarcation line (USCG jurisdiction). There are two possibilities in this case: (1) The EPA provides the OSC and the CG assists the EPA with waterside clean-up operations. This was the case in the Francis Plating Fire release in which EPA was the OSC and CG coordinated waterside cleanup operations. (2) By mutual agreement, the CG would provide the OSC. This was the case in the Shell Martinez spill where the source of the spill was in the EPA zone, but, because the majority of impact and response was in the coastal zone, it was agreed that the CG should provide the OSC. Good communications and coordination between EPA and CG OSCs are vital to an effective federal response. The EPA provides the OSC for the entire States of Nevada and Arizona.

Sector San Francisco COTP Area of Responsibility has been further divided into three planning segments as promulgated by the OPA-90 Area Contingency Plans. Each segment is described in sections 1220, 1230, and 1240.





### **1220 North Coast Area**

The North Coast Area extends from the Oregon/California border south to the Mendocino County/Sonoma County line and includes the counties of Del Norte, Humboldt and Mendocino.

The northern offshore boundary extends from the California/Oregon border along the 42-00'00" N latitude to the offshore extent of the Exclusive Economic Zone.

The southern offshore boundary extends from the Mendocino County/Sonoma County border along the 38-46'07" N latitude to the offshore extent of the Exclusive Economic Zone.

The CG/EPA demarcation line runs from the intersection of Highway 1 and the Sonoma County/ Mendocino County line north along Highway 1 to Usal Road near

Rockport; north on Usal Road to Chemise Mountain Road; north on Chemise Mountain Road to Shelter Cove Road; west on Shelter Cove Road; north on Kings Peak Road to Wilder Ridge Road; north on Wilder Ridge Road to Mattole Road; north and west on Mattole to Highway 1 at Ferndale; north on Highway 1 to Highway 101 at Fernbridge; north on Highway 101 to Front Street; west on Front Street to A Street; north on A Street to Sixth Street; west on Sixth to Pebble Beach Drive; north on Pebble Beach Drive to Washington Blvd.; east on Washington to Lake Earl Drive; north on Lake Earl Drive to Highway 101; north on Highway 101 to the California-Oregon border.

### **1230 San Francisco Bay and Delta Area**

The San Francisco Bay and Delta Area extends from the Mendocino County/Sonoma County line south to the San Mateo County/Santa Cruz County line and includes all counties on San Francisco Bay and its tributaries. These counties include: San Francisco, Marin, Napa, Contra Costa, Alameda, Santa Clara, San Mateo, Yolo, San Joaquin, Solano and Sacramento.

The northern offshore boundary extends from the Mendocino County/Sonoma County border along the 38-46'07" N latitude to the offshore extent of the Exclusive Economic Zone.

The southern offshore boundary extends from the San Mateo County/Santa Cruz County border along the 37-06'26" N latitude to the offshore extent of the Exclusive Economic Zone.

The CG/EPA demarcation line runs from the San Mateo County/Santa Cruz County border north along Highway 1 to Hwy 35 near San Francisco; west on Hwy 35 to the Great Hwy; north on the Great Hwy to the intersection with Point Lobos Avenue; Point Lobos Avenue east to Geary Blvd.; Geary Blvd. east to Laguna Street; Laguna Street south to Bay street; Bay Street east to intersection with State Belt railroad tracks; State Belt railroad tracks south along the Embarcadero to Third Street; Third Street south to Hwy 101; Hwy 101 south to Hwy 237; Hwy 237 east to intersection with Southern Pacific railroad tracks; Southern Pacific railroad tracks north to intersection with Hwy 880 (approximately 1/2 mile south of 98th Avenue exit); Hwy 880 north to intersection with Southern Pacific Railroad tracks near Albany; Southern Pacific railroad tracks north and east until intersection with Hwy 4 (approximately 2 mile east of Antioch); Hwy 4 east to I-5 at Stockton; I-5 north to Hwy 80; Hwy 80 west to Hwy 113; Hwy 113 south to Hwy 12; Hwy 12 west to Hwy 80; Hwy 80 west to Hwy 680; Hwy 680 south to Hwy 780; Hwy 780 west to Hwy 80; Hwy 80 west to Hwy 29; Hwy 29 north to Hwy 37; Hwy 37 west to Hwy 101 near Ignacio; Hwy 101 south to Hwy 1 at Marin City; Hwy 1 north to Gualala.

### **1240 Central Coast Area**

The Central Coast Area extends from San Mateo County/Santa Cruz County border south to Monterey County/San Luis Obispo County border and includes Santa Cruz County and Monterey County.

The northern offshore boundary extends from San Mateo County/Santa Cruz County border along the 37-06'26" N latitude to the offshore extent of the Exclusive Economic Zone.

The southern offshore boundary is a line extending 270 T from the Monterey

County/San Luis Obispo County border to the offshore extent of the Exclusive Economic Zone.

The CG/EPA demarcation line runs north along Hwy 1 from the Monterey County/San Luis Obispo County border to the northern border of Santa Cruz County.

## **1300 Area Committee**

[Refer to Section 1005.02.1\(a\) of the Region 9 Contingency Plan](#)

### **1310 Purpose**

[Refer to Section 1005.02.1\(a\) of the Region 9 Contingency Plan](#)

### **1320 Organization**

40 CFR 300.5 defines Area Committees, as provided for by CWA sections 311(a)(18) and (j)(4), as the entity appointed by the President consisting of members from qualified personnel of federal, state, and local agencies with responsibilities that include preparing for an area contingency plan for an area designated by the President.

Three Area Committees, including the North Coast, San Francisco and Central Coast Area Committees, coordinate the San Francisco Area Contingency Plan.

The North Coast Area Committee is co chaired by FOSC San Francisco and the California Department of Fish and Game OSPR Local Warden (as directed by the Director of OSPR)

The San Francisco Area Committee is co chaired by FOSC San Francisco and the California Department of Fish and Game OSPR Local Warden (as directed by the Director of OSPR)

The Central Coast Area Committee is co chaired by FOSC San Francisco and the California Department of Fish and Game OSPR Local Warden (as directed by the Director of OSPR)

See section 1005 of the Region 9 Contingency Plan for additional information.

### **1330 Area Committee Charter Members**

**For a current list of Area Committee Charter members call Sector San Francisco at 415-399-3547**

**USCG**

**California Department of Fish and Game OSPR**

**NOAA**

**OES CA Coastal Commission**

**City and County representatives**

**Local OSROS**

**Environmental NGOs**

**SERC Reps**  
**LEPC Reps**

## **1400 National and Area Response System**

[Refer to Section 1002.01 of the Region 9 Contingency Plan](#)

### **1410 National Response Structure**

[Refer to Section 1002.01 of the Region 9 Contingency Plan](#)

### **1420 RRT Structure**

[Refer to Section 1004.02 of the Region 9 Contingency Plan](#)

### **1430 Area Response Structure (SONS)**

[Refer to Sections 1004.11 of the Region 9 Contingency Plan](#)

### **1440 Incident Command System**

[Refer to Section 1002.01.1 of the Region 9 Contingency Plan](#)

### **1450 Area Exercise Mechanism (PREP)**

[Refer to Section 1006 of the Region 9 Contingency Plan](#)

### **1460 National Response Plan**

[Refer to Section 1003.02 of the Region 9 Contingency Plan](#)

### **1470 Federal Radiological Response Plan**

[Refer to Section 1003.02.1 of the Region 9 Contingency Plan](#)

## **1500 State/Local Response System**

[Refer to Section 1002.03 of the Region 9 Contingency Plan.](#)

## **1600 National Policy and Doctrine**

[Refer to Section 1002 of the Region 9 Contingency Plan.](#)

### **1610 Public vs Private Resource Utilization**

[Refer to Section 1002.03.2\(d\) of the Region 9 Contingency Plan.](#)

### **1620 Best Response Concept**

[Refer to Section 1002.02.8\(a\) of the Region 9 Contingency Plan.](#)

### **1630 Cleanup Assessment Protocol (How Clean is Clean)**

[Refer to Section 1002.05 of the Region 9 Contingency Plan.](#)

### **1640 Dispersant Pre-Approval/Monitoring/Decision Protocol**

[Refer to Sections 1007.05 of the Region 9 Contingency Plan.](#)

**1650 Insitu Burn Approval/Monitoring/Decision Protocol**

[Refer to Sections 1007.06 of the Region 9 Contingency Plan.](#)

**1660 Bioremediation Approval/Monitoring/Decision Protocol**

[Refer to Section 1007.08 of the Region 9 Contingency Plan.](#)

**1670 Fish and Wildlife Acts Compliance (Migratory Bird Act, Marine Mammal Act, Endangered Species Act, etc.)**

[Refer to Section 1002.02.4\(a\) of the Region 9 Contingency Plan](#)

**1680 Protection of Historic Properties (National Historic Preservation Act)**

[Refer to Section 1002.02.3 of the Region 9 Contingency Plan](#)

**1690 Alternative Response Technical Evaluation System (ARTES)**

[Refer to Section 1007.10 of the Region 9 Contingency Plan](#)

**16100 Specialized Monitoring of Advanced Response Technology (SMART)**

[Refer to Section 1007.09 of the Region 9 Contingency Plan](#)

**16110 Spills of Nonfloating Oils**

[Refer to Appendix XXVIII of the Region 9 Contingency Plan.](#)

**1700 Reserved**

**1800 Reserved**

**1900 Reserved for Area/District**

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